

STORAGE NAME: h0097a.fpr.doc
DATE: February 14, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: HB 97
RELATING TO: Tax on Sales, Use and Other Transactions
SPONSOR(S): Representative(s) Kilmer and Others
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill creates the Florida Residents' Tax Relief Act of 2002, which provides that no sales tax will be collected upon clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$100 or less for a nine day period beginning July 28, 2001. The bill:

- defines "clothing" to mean any article of wearing apparel, including all footwear, intended to be worn on or about the human body;
- excludes from the definition of "clothing" watches, watchbands, jewelry, handkerchiefs, and umbrellas;
- provides that the provisions of the Act do not apply in certain establishments;
- provides specific rule-making authority to the Department of Revenue to adopt rules to implement the Act; and
- provides a \$200,000 appropriation to the Department of Revenue for the implementation of the Act.

The bill reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution requires a 2/3 vote of the membership of both houses of the Legislature for this bill to be enacted.

On February 14, 2002, the Fiscal Policy and Resources Committee adopted a strike everything amendment to the bill. The Revenue Estimating Conference has not yet determined the impact of the bill as amended. However, it is anticipated that the bill as amended will still fall under the mandate provisions of the Florida Constitution.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 212, F.S., provides that a sales and use tax be imposed on the retail sale, storage, or use of tangible personal property. Section 212.02(19), F.S. The sales tax rate is 6%. Chapter 212, F.S., also lists items and transactions that are exempt from sales and use tax. Under current law, the retail sale of clothing is subject to sales tax.

Chapter 98-341, Laws of Florida, the Florida Family Tax Relief Act of 1998, provided that apparel, including footwear, with a taxable value of \$50 or less, was exempt from the imposition of sales tax during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998. The Act defined "clothing" to mean any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of the Act, "clothing" did not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

Chapter 99-229, Laws of Florida, the Florida Residents' Tax Relief Act of 1999, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 31, 1999, through midnight, August 8, 1999. The tax-free week was earlier in 1999 than in 1998 to allow families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 1999.

Chapter 2000-175, Laws of Florida, the Florida Residents' Tax Relief Act of 2000, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 29, 1999, through midnight, August 6, 1999. The tax-free week was scheduled to allow families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$215,000 was provided to the Department of Revenue to administer the Act in 2000.

Chapter 2001-148, Laws of Florida, the Florida Residents' Tax Relief Act of 2001, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 29, 1999, through midnight, August 5, 1999. The tax-free week was scheduled to allow

families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 2001.

C. EFFECT OF PROPOSED CHANGES:

The bill creates the Florida Residents' Tax Relief Act of 2002. The provisions of the bill are identical to the 2001 Act except that the nine day tax exempt period begins 12:01 a.m., July 27, 2002, and ends midnight, August 4, 2002. The Department of Revenue is appropriated \$200,000 to administer the provisions of the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 provides that this act may be cited as the "Florida Residents' Tax Relief Act of 2002.

Section 2 exempts certain clothing items from sales taxation for 9 specific days in 2002. To implement this exemption, the Department of Revenue is granted rule making authority.

Section 3 appropriates \$200,000 from the General Revenue Fund to the Department of Revenue to implement this act.

Section 4 provides that this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FY 2002-03 (in millions)	
General Revenue	(\$35.4)
Solid Waste Mng't Trust Fund	<u>(\$0.1)</u>
Total State Impact	(\$35.5)

2. Expenditures:

An appropriation of \$200,000 from the General Revenue Fund is provided to the Department of Revenue to administer the Act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

FY 2002-03 (in millions)	
Local Government Revenue Sharing	(\$1.2)
Local Govt. Half Cent TF	(\$3.5)
Local Option Sales	<u>(\$2.4)</u>
Total Local Impact:	(\$7.1)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

During the specified period, clothing can be purchased for 6% to 7½% less depending on the local option rate. Given the timing of the tax-free period, families will be able to save money on clothing prior the beginning of the school year.

Retail sellers may incur some costs for the reprogramming of cash registers and accounting systems.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Section 18, Article VII, of the Florida Constitution, provides that a general law is a mandate when the law would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. The term "authority" includes a reduction in the base against which the tax is levied. A bill providing a sales tax exemption is a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

The estimated reduction in Local Option Sales tax by this bill is \$2.4 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution requires a 2/3 vote of the membership of both houses of the Legislature for this bill to be enacted.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

See IV above regarding mandates.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to immediately adopt rules to carry out the provisions of the Act.

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C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 14, 2002, the Fiscal Policy and Resources Committee adopted a strike everything amendment to the bill. This amendment lowered the maximum value of exempted clothing from \$100 to \$50. In addition, the strike everything exempts "school supplies" which cost \$10 less. The amendment does supply a definition of school supplies.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

Lynne Overton